

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TREAUNA L. TURNER,

Plaintiff,

v.

PALLARES, *et al.*,

Defendants.

Case No. 1:21-cv-01721-AWI-BAM (PC)

ORDER GRANTING PLAINTIFF'S MOTION
TO CONSENT TO DISMISSAL OF
DEFENDANTS
(ECF No. 23)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS
(ECF No. 22)

Plaintiff Treauna L. Turner ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 30, 2022, the assigned Magistrate Judge screened Plaintiff's first amended complaint and issued findings and recommendations that this action proceed against: (1) Defendant Barbara Showalter, M.D., and Defendant Robert Mitchell, M.D., Medical C.E.O., CCWF, retired, for deliberate indifference to medical care in violation of the Eighth Amendment; and (2) Defendants Barbara Showalter, Robert Mitchell, and Kali Freeman, M.D., contracted pathologist, employed at Yosemite Pathology Medical Group, Inc., for negligence (medical malpractice). (ECF No. 22.) The Magistrate Judge further recommended that all other claims and defendants be dismissed based on Plaintiff's failure to state claims upon which relief may be granted. (*Id.*) The findings and recommendations were served on Plaintiff and contained notice that any objections were to be filed within fourteen days after service. (*Id.* at 12–13.)

On October 18, 2022, Plaintiff filed a motion to consent to the dismissal of Defendant M. Pallares (Warden) at CCWF and all other unnamed defendants.¹ (ECF No. 23.) As the only

¹ This motion was docketed as "Motion to Court to Consent to Dismissal of Defendant M. Pallares at CCWF and all other Named Defendants," but this appears to be a misreading of Plaintiff's handwriting. (*See* ECF No. 23, docket text.)

named defendants in this action are Defendants Pallares, Showalter, Mitchell, and Freeman, it appears Plaintiff raises no objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including Plaintiff's motion, the Court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Plaintiff's motion to consent to dismissal of Defendant Pallares and all other unnamed defendants, (ECF No. 23), is granted;
2. The findings and recommendations issued on September 30, 2022, (ECF No. 22), are adopted in full;
3. This action shall proceed on Plaintiff's first amended complaint, filed September 21, 2022, (ECF No. 20), against:
 - a. Defendants Showalter and Mitchell for deliberate indifference to medical care in violation of the Eighth Amendment; and
 - b. Defendants Showalter, Mitchell, and Freeman for negligence (medical malpractice);
4. All other claims and defendants are dismissed from this action for failure to state claims upon which relief may be granted; and
5. This action is referred back to the Magistrate Judge for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: January 11, 2023



SENIOR DISTRICT JUDGE